



## COMMONS REGISTRATION ACT 1965

Reference No.45/D/21

In the Matter of Hide Park Wood,  
Long Preston, Settle R.D., Yorkshire

DECISION

This dispute relates to the registration at Entry No.1 in the Land section of Register Unit No.C.L.253 in the Register of Common Land maintained by the West Riding County Council and is occasioned by Objection No.50 made by Mr. John Ogden and noted in the Register on 3 February 1970.

I held a hearing for the purpose of inquiring into the dispute at Skipton on 3 October 1972. The hearing was attended by the Long Preston Parish Council ("the Council") who were represented by their clerk Mrs. Tomkins and by Mr. Ogden ("the Objector") who was represented by Mr. W. Foster solicitor of Messrs. Walker Charlesworth & Foster solicitors of Skipton.

The registration was made on the 28 June 1968 pursuant to an application made by the Council. The Objection is dated 12 December 1969 and the grounds therein stated are: "I am the estate owner in respect of the fee simple of this property. There are no rights of common over this property. The land which I own is marked "Lot 3" and is edged yellow on the attached plan". The attached plan was in all relevant respects the same as that annexed to the below mentioned 1963 conveyance.

This Unit is approximately rectangular. It is completely enclosed by a dry stone wall about 3 feet 6 inches high. On the west side it fronts on Green Gate Lane for (as I scale the Register Map) about 90 yards, and on the north side it fronts on the area where Green Gate Lane joins London Lane for (similarly scaled) about 10 yards. It is bounded on the east by the Southern half of the field ("the northern field") on the ordnance survey map dated 1909 numbered 315 and bounded on the south by the north west corner of a field ("the southern field") on the said map numbered 92. This Unit has about 20 old trees growing on it and is uncultivated.

The Objector in his evidence produced a copy of a conveyance dated 26 June 1963 between (i) Mr. J. & Mrs. A. A. Towler and (ii) the Objector, by which after reciting that the "property hereinafter described" has by a conveyance dated 8 December 1954 been conveyed to Mr. & Mrs. Towler by S. & G. A. Hewitt, it was witnessed that two closes of land therein described were thereby conveyed to the Objector. From the description in the conveyance and the plan annexed to it, it was I think clear that the two closes of land so conveyed were the northern field and the southern field and that although on the plan this Unit was separately delineated, it was treated as part of and as included in the area ascribed on the plan to, the northern field; such inclusion being indicated on the plan by two loops or long 'S's.

The Objector told me: Since his acquisition of the northern field and the southern field he has farmed them with Ribblesdale, a farm which is situated about  $\frac{1}{2}$  mile away and which he has owned for about 20 years. The dry stone wall around this Unit is high enough to keep out any sheep grazing the northern field or the southern field. He remembered that at one time there was a small gap in the wall



at the southern end of this Unit providing access from one of the fields to this Unit, but this gap had been walled up. If the wall was taken down the sheep would get in and that would be the end of the trees. There had never been as far as he knew any gap in the wall providing access from Green Gate Lane or London Lane. He had visited this Unit nearly every day to visit the stock in the field which had to be fed every day; he had never seen any other person on this Unit.

Mrs. Tomkins who has been for the last 4 months clerk of the Council and has lived in the Parish for the last 5 years in her evidence said: The general opinion of the inhabitants is that this Unit has always been known as common land. There has never been any sheep or cows in it; it is completely walled off. She understood from Mrs. C. Harrison (the S. Hewitt mentioned in the 1963 conveyance) that this Unit was not in the deeds when the fields were sold to Mr. and Mrs. Towler.

Mrs. Tomkins produced a copy of a map which she understood was annexed to an Award now held by the Parish Council. She also produced an Ordnance Survey Map dated 1852. Both these maps showed this Unit as part of or as included in Moor Lane (which is another name for Green Gate Lane) and showed the northern field as adjoining Green Gate Lane along what is now the eastern boundary of this Unit, such field being on these maps numbered 556 and called "Hide Park".

The Council and the Objector agreed the copy 1963 conveyance and the copy Award map, and agreed that I should treat the award as having been made in or about 1852.

I cannot I think conclude that because this land has always been known as "common land" that it is therefore common land within definition, by which I am bound, in section 22 of the Act. By such definition (stating its effect so far as relevant shortly) "common land" means either (i) land subject to rights of common or (ii) waste of a manor not so subject but (iii) not land which forms part of a highway.

On the evidence before me I can I think properly conclude that this land has never at any relevant time been subject to rights of common as defined in the Act. Although this Unit when the 1852 maps were made, probably was, and might perhaps be now regarded as, waste land, I have no direct evidence that it was ever part of a manor; from a consideration of the 1852 maps, I would think it more likely that this Unit was then road side verge and therefore part of the highway than manorial waste. These considerations together with the description of this Unit in the 1963 conveyance and the evidence that it is now completely enclosed and not used at all by the public, are I think sufficient to enable me to conclude that this Unit is not within the definition above referred to.

For these reasons I refuse to confirm the registration. It was agreed between the Council and the Objector that what ever might be my decision I should make no order as to costs.

I am required by regulation 30(1) of the Commons Commissioners Regulations 1971 to explain that a person aggrieved by this decision as being erroneous in point of law may, within 6 weeks from the date on which notice of the decision is sent to him, require me to state a case for the decision of the High Court.

Dated this 6<sup>th</sup> day of November 1972.

a. a. Baden Fuller

Commons Commissioner